



1225 Nineteenth Street, N.W., Suite 450 Washington, D.C. 20036 (202) 296-4933  
e-mail: alex.netchvolodoff@cox.com

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**Alexander V. Netchvolodoff**  
Vice President of Public Policy

February 14, 2000

OFFICE OF THE SECRETARY  
FEDERAL COMMUNICATIONS COMMISSION

FEB 17 2000

The Honorable William Kennard  
Chairman  
Federal Communications Commission  
445 - 12th Street, SW, Room 8B201  
Washington, DC 20554

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EX PARTE OR LATE FILED

Re: Transfer of Control of GTE Corporation  
CC Docket 98-184  
Written Ex Parte Communication

Dear Mr. Chairman:

I am writing to ask for your assistance in resolving an ongoing dispute between Cox Virginia Telecom, Inc. ("Cox") and GTE concerning GTE's refusal to compensate Cox for ISP traffic terminated on Cox's network.

Cox negotiated an interconnection agreement with GTE, which was signed by the parties in March 1997 and approved by the Virginia State Corporation Commission ("VASCC") in May 1997. Certain aspects of the agreement were arbitrated by the VASCC, but the reciprocal compensation provisions of the agreement were reached through voluntary negotiation.

At no time during the negotiations and prior to execution of the Agreement did GTE seek to exclude ISP traffic from the definition of local traffic. Neither did GTE bring this matter up as an issue for resolution during the VASCC's proceedings for arbitration. Since ISP traffic was commonplace at that time, it was hardly surprising that neither party saw a need to address ISP traffic explicitly in the agreement.

Under the terms of the interconnection agreement, GTE owes Cox reciprocal compensation over a period of 21 months in the accumulated amount of \$2,092,889.12. During the last 7 months, Cox owes GTE \$77,230.09 in reciprocal compensation. The net amount owed by GTE to Cox is \$2,015,659.03. Cox has repeatedly requested that GTE follow the compensation terms of the agreement, but GTE has made no payments for any traffic.

On March 18, 1999, Cox petitioned the VASCC for enforcement of its interconnection agreement with GTE for reciprocal compensation, including traffic terminated with ISPs.

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On January 24, 2000, the VASCC declined jurisdiction because of the "possibility of conflicting results being reached by this Commission and the FCC." The VASCC further stated, "...the FCC's Reciprocal Compensation Order, to the extent it intends to confer regulatory jurisdiction, is of dubious validity." Accordingly, the VASCC dismissed Cox's petition without prejudice and encouraged Cox to seek a resolution of this dispute at the Federal Communications Commission.

The Virginia Commission's action is particularly significant because on July 1, 1999, the U.S. District Court for the Eastern District of Virginia entered an order dealing with a similar dispute between Bell Atlantic and MCI. The Court said the issue before it was "whether ISPs constitute reciprocal compensation under the terms of the parties' Agreement." The Court found that "...the Virginia Commission did make a determination regarding the agreement when it was approved. Thus, the Court finds that Section 252 applies. However, the Virginia Commission did not make a determination regarding the interpretation of the claims. This Court finds that the Telecommunications Act was designed to allow the state commission to make the first determination. Circumventing the state commission's initial review undermines the review process established by Congress in the Telecommunications Act. For those reasons, the Court holds that it lacks subject matter jurisdiction over this dispute until the Virginia Commission makes an initial determination."

Thus, Mr. Chairman, Cox finds itself in a veritable Catch 22. The U.S. District Court has found that agreements such as the one between Cox and GTE properly were entered into pursuant to Section 252 of the 1996 Act and that the state commission must make the first determination. Prior to the FCC's order on the jurisdictional nature of ISP-bound traffic, the VASCC had determined that carriers with agreements were entitled to be compensated for terminating this traffic. But now the VASCC declines jurisdiction, citing the FCC's order as substantially muddying the waters.

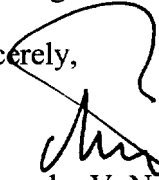
Accordingly, Cox asks the FCC to untangle this dispute by conditioning the merger of Bell Atlantic and GTE on GTE's payment of reciprocal compensation owed to Cox now or in the future during the pendency of their existing interconnection agreement. Cox has experienced actual costs for the transport and termination of GTE's traffic to ISPs. Cox is entitled to be compensated.

Mr. Chairman, this is a jurisdictional no man's land. It is caused in particular by the FCC's order, holding that ISP-bound traffic is substantially interstate. As a result, the VASCC has refused to act, and the courts will not force it to do so. The FCC, accordingly, would serve the cause of equities by imposing, as a condition of merger between GTE and Bell Atlantic, a

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requirement that GTE pay the reciprocal compensation for Internet-bound traffic and all other traffic that is due under its existing agreement with Cox. Bell Atlantic has paid its ISP reciprocal compensation obligations under its interconnection agreement with Cox. GTE should do no less.

Sincerely,



Alexander V. Netchvolodoff

Enclosures: Cox Petition, Reply and Surreply to the VASCC  
VASCC Order  
Decision in Bell Atlantic v. MCI WorldCom, U.S. District Court, Eastern District  
of Virginia  
Analysis of Cox/GTE reciprocal compensation obligations

cc: The Honorable Harold Furchtgott-Roth  
The Honorable Michael Powell  
The Honorable Susan Ness  
The Honorable Gloria Tristani